

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
SOUTHWESTERN DIVISION**

Dakota, Missouri Valley and Western )  
Railroad Inc., a North Dakota Corporation, )

Plaintiff, )

vs. )

JMA Rail Products Co., foreign corporation,) )  
JMA Railroad Supply Co., foreign )  
corporation, and Miba Bearings U.S., LLC, )  
a foreign limited liability company, )

Defendants. )

**ORDER RE CAPTION CORRECTION  
AND ADDITIONAL BRIEFING  
SCHEDULE**

Case No. 1:06-cv-002

---

**IT IS ORDERED:**

The court held a scheduling and discovery teleconference on April 14, 2006, in the above entitled case. Attorney Jerry Evenson participated on behalf of the plaintiff and Attorney David Maring participated on behalf of JMA Rail Products Co. and JMA Railroad Supply Co. ("JMA"). Attorneys Larry Boschee and Alexander Andrews participated on behalf of Miba Bearings.

During the teleconference, Attorney Maring indicated that his clients were incorrectly listed in the caption of the complaint as JMA Rail Products Co., a/k/a JMA Rail Supply Co. He stated the correct names are JMA Rail Products Co. and JMA Railroad Supply Co. and that these are two separate companies. The parties agreed during the teleconference that the names should be changed in the caption accordingly, and that the caption should reflect that these are separate defendants. Attorney Maring agreed that there are no issues with respect to service of process and that both companies are party defendants to the action. Therefore, the Clerks Office is directed to make the changes reflecting the correct name in the docket.

Defendant JMA has filed an affidavit seeking to be dismissed in this case pursuant to N.D.C.C. § 28-01.3-04. As agreed on during the teleconference, the following briefing schedule is established to address the issues raised by JMA. The plaintiff shall have until May 5, 2006, to file a response, and JMA shall have until May 19, 2006, to file a reply. The affidavit shall be treated as a motion to dismiss.

Dated this 14th day of April 2006.

/s/ Charles S. Miller, Jr.  
Charles S. Miller, Jr.  
United States Magistrate Judge